

Thursday, January 9, 1862.

Senate met pursuant to adjournment. Prayer by the Chaplain. Roll called, quorum present. The journal of yesterday was read and adopted.

A bill for relief of Charles H. Sims. Read 2nd time and ordered to a 3rd reading. Rule suspended, read 3rd time and passed.

A message from the House informed the Senate of the following action by that body, viz.:

The passage of Senate's bill for relief of Joseph P. Sneed, assignee of Thomas Grubbs.

Also joint resolution relative to procuring payment to be made deputy marshals for taking census in 1860.

The adoption of Senate's substitute for House bill relative to lake known as "El Sal del Rey" and agree to Senate amendments to bill to regulate estrays.

The adoption of substitute of Senate to an Act to amend the stay law and refuse to agree to Senate's amendments to the revenue bill.

The passage of Senate's bill for relief of railroad companies with an amendment, which was concurred in.

The revenue bill was then taken up, the Senate adhering to its amendments, when Messrs. Erath, Guinn, and Lea were appointed a Committee of Conference.

The Committee on Private Land Claims recommended the passage of a bill for relief of Philander Priestley.

The Secretary was authorized to employ the services of an additional assistant clerk for the remainder of the session.

A message from the House informed the Senate of the passage of the following bills with amendments, viz.:

A bill to create the County of Kendall, and a bill to change the boundary line of Blanco and Kerr Counties, which were concurred in.

The revenue bill was taken up, and on Mr. Shelley's motion the 4th section was stricken out.

Mr. Shelley then offered the following amendments, which were adopted:

Section 4—that section 16 of said Act, approved 11 February, 1860, be so amended as to hereafter read as follows:

Section 16—If any person shall fail or refuse to pay the taxes imposed upon him or her on his or her property by law until the first day of March next, succeeding the

return of the assessment roll of his county to the Comptroller, the assessor and collector shall, upon such failure or refusal, file in the office of the Chief Justice a list of the name or names of all such persons so failing or refusing to pay their taxes together with a list of their taxable property respectively and the amount of taxes due thereon and unpaid. And in all cases where property has been assessed to an unknown owner, the assessor and collector shall file a list of such property with the description by which the same was assessed in the office of said Chief Justice. And it shall be the duty of the clerk of the county court immediately to issue citations in the name of the State of Texas to each of the parties so failing or refusing to pay their taxes attested by the seal of the county court, commanding said parties to appear at the next regular term of the county court and show cause why judgment should not be rendered against him, her, or them for the amount of the taxes due and unpaid, which citations shall be served and returned by the sheriff in like manner with other citations where the parties are residents of the State and shall be returnable to the first regular term of the county court after issuance. But, where the owners of the property on which the taxes are not paid are non-residents or unknown owners describing therein the property assessed to said non-residents or unknown owners, which citation shall be published for three consecutive weeks in a newspaper published in the county, if there be one, if not, then in the newspaper published nearest to the court house of the county where said proceedings are had, and said citation shall be returnable in like manner with other citations by publication at the regular term of the county court in August. And when citations have been executed and returned, as here in provided, the county court being hereby invested with full power and jurisdiction for this purpose shall, at the court to which the citations are returnable or at any subsequent regular term, proceed to hear and determine the cases in the order in which they have been entered upon a docket to be kept for that purpose, the State of Texas as plaintiff and the party to whom citation has been issued as defendant. On the hearing it shall be competent for the defendant to show any matter which will exempt him or her for judgment for the amount charged against him, her, or them, provided, if payment shall have been made after the citation issued, the defendant shall be liable for and shall pay all costs incurred. Upon the rendition of judgment by the county court, attested by the seal of said court for the amount

of said judgment and costs, execution shall be levied in the same manner and the same proceedings had thereon as other executions and shall be returnable to said county court in sixty days from the date of issuance.

Section 5—The list filed in the office of the Chief Justice by the assessor and collector, as provided in the preceding section, shall be *prima facie* evidence of what it contains, and it shall be the duty of the assessor and collector to attend the terms of the county courts at which any proceedings may be had under this Act, and he shall represent the State in the preparation and presentation of said cases to said court, and he shall receive for such services the same compensation as heretofore allowed by law for advertising and making sales of taxes.

Section 6—The sheriff or other officer, when he shall have made sale of any property for the payment of taxes under the judgment and execution as herein provided, shall make and execute a deed for said property to the person or persons purchasing the same which shall have the same force and effect as other sheriff's or official deeds, provided, however, that the owner of such property shall have the right to redeem the property so sold at any time within two years of the day and date of the sale thereof upon paying to the purchaser the amount paid by him for said property and all costs together with interest thereon at the rate of 25 per cent per annum, and, also, all taxes which may have accrued on said property and been paid by said purchaser after the date of said sale.

Section 7—The Chief Justice shall be entitled to receive the following fees for his services under this Act: for rendering up judgment, one dollar. The county clerk shall receive for his services as follows:

For issuing each citation—fifty cents.

For issuing each subpoena—fifty cents.

For issuing each execution—fifty cents.

Entering return on same—ten cents.

The sheriff shall receive for his services under this Act the same fees as are allowed him by law for like services in other cases, and said fees shall be taxed in the bill of costs and collected in like manner as costs in other cases.

Add at the end of 4th section "provided that execution under this Act may be issued to and levied in any county of the State."

Mr. Guinn offered the following amendment: "and all taxes not paid by the last day for paying taxes designated

by this Act shall bear interest at the rate of 10 per cent per annum, and no deed of transfer shall be received for file or record in any county clerk's office unless accompanied by tax receipts for the year 1860 and the following years, or, if said receipts be lost, a certificate from some tax collector or the Comptroller that the taxes from 1860 up to the year to which the deed is presented for record have been paid." Laid on table.

The caption of the bill was amended according to the recommendation of the Finance Committee.

Mr. Lea moved to strike out "that the list of taxable property to be furnished shall not be construed so as to include the products of the soil of this State." Laid on table.

Mr. Shelley offered the following: "provided further that nothing herein shall be so construed as to effect the lien of taxes upon all property real and personal as heretofore provided by law." Adopted.

The Finance Committee's amendment to section 8 was adopted. Further consideration was postponed for the present.

Mr. Obenchain introduced a bill for relief of preemption settlers and to extend the time for the payment of dues thereon. Read 1st and 2nd times and ordered to be engrossed. Rule suspended, read 3rd time and passed.

A bill for relief of James L. Foster. Read 2nd time and ordered to 3rd reading. Rule suspended, read 3rd time and passed.

A bill for relief of Robert R. Scott. Read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed.

The Committee on Internal Improvements recommended the passage of a bill for the relief of the Texas and New Orleans Railroad Company. Rule suspended, bill amended and ordered to be engrossed. Rule suspended, read 3rd time and passed by constitutional majority.

The Finance Committee recommended a substitute for a bill appropriating money derived from the State revenue for military purposes.

Mr. Hartley introduced a bill supplementary to an Act to create a hospital fund. Read 1st time. Rule suspended, read 2nd time and ordered to be engrossed. Rule further suspended, read 3rd time and passed.

The Senate then adjourned until 3 o'clock P. M.

3 o'clock P. M.

Senate met, roll called, quorum present.

The bill for relief of W. L. Chalmers having been substituted by the Senate, and the House having refused to adopt it, the question arose upon a motion of Mr. Shelley to recede and was lost by the following vote:

YEAS—Messrs. Batte, Cook, Darden, Graham, Harcourt, Hartley, Mitchell, Parsons, Reed, Scarborough, Shelley, and Weatherford—12.

NAYS—Messrs. Beasley, Boyd, Burnett, Casey, Crawford of Fannin, Crawford of Jasper, Durant, Erath, Guinn, Houston, Moore, Selman, and Wheeler—13.

Messrs. Shelley, Darden, and Casey were therefore appointed a Committee of Conference.

Message from House that they had passed a substitute for Senate's bill for relief of Artemicia Wilson, Senate's bill for relief of preemption settlers, and bill to amend Act incorporating City of Austin, and had appointed Messrs. Marshall, Stiff, Lane, and Townes a Conference Committee on bill for relief of W. L. Chalmers.

A bill for relief of Jarman Carter. Read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed.

A bill for relief of Philander Priestley. Read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed.

A bill amending an Act to incorporate the City of Austin. Read 1st time. Rule suspended, read 2nd time and passed to 3rd reading. Rule suspended, read 3rd time and passed.

A bill for relief of F. A. Sherman. Read 1st time. Rule suspended, read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed.

A bill relating to the sale of beef cattle. Read 1st and 2nd times and referred to Committee on State Affairs.

House substitute for Senate's bill for relief of A. Wilson. Adopted and passed to 3rd reading. Rule suspended, read 3rd time and passed.

A message was received from the Governor upon which the Senate went into executive session, closing the doors of the chamber while the message was being read, and after opening the doors the message and accompanying documents were referred to Committee on Finance.

EXECUTIVE DEPARTMENT ¹⁵

Austin, January 9, 1862.

**Gentlemen of the Senate and
House of Representatives:**

I am this moment in receipt of important intelligence of great interest to the State of Texas, as well as to the Confederate States, and forthwith lay it before you for your consideration, knowing your patriotism will move you to wise conclusions.

I herewith enclose to you a copy of a letter received by me this morning from the Honorable J. P. Benjamin, Secretary of War of the Confederate States,¹⁶ by which it will be seen that he proposed "That for any amount of the United States 5 per cent bonds in possession of the State of Texas which can be used in the purchase of arms and ammunition, will be replaced in our Treasury with Confederate States bonds bearing 8 per cent interest."

I am also in receipt of letters from our members in the Provisional Congress, L. T. Wigfall, John Hemphill, and T. W. Waul, which letters I herewith transmit to you, all urging upon me the acceptance of the proposition made by the Secretary of War.

It appears to me that the arrangement proposed would be a most advantageous one for the State and the parties directly interested in the United States bonds now in the Treasury greatly benefited by the exchange. The best we can hope for would be the assumption of the payment of the United States bonds by the Confederate States at a very remote period after the present war terminates. Should the United States after the declaration of peace agree to pay her bonds now in the Treasury of this State, at what time can or will it be done? My own opinion is that that government will be so totally and wholly bankrupted by the present war that she will never be in a

¹⁵ This message is not included in the original journal manuscript because it was read in executive session. Although there may be some question as to correct identity, the editor believes that this is the message referred to in the journal above. It is found in the Executive Record Book, Governor F. R. Lubbock, 1861-1863, No. 818, pp. 93-94.

A later reference in the journal indicates that this message was probably returned by the Senate to the Governor. See resolution reported by Pryor Lea, Chairman of Finance Committee, on page 22 of this journal.

¹⁶ None of the letters referred to in this message accompany the message in the Executive Record Book.

condition to pay these bonds no matter how great her willingness may be.

Therefore, in a financial point of view, it is very clear to my mind that the interest of the State—the school fund—and the parties who expect to be benefited by the use of these bonds would all be greatly advanced by the proposed exchange.

Other considerations of a patriotic character rise higher than all pecuniary interests which appeal loudly and strongly for the State of Texas to take some action in the direction indicated.

Our country is engaged, as I have oftentimes repeated, in a just, holy, and important struggle. What we most require in order to enable us to bring this war to a speedy and successful termination is the proper arming of our people and obtaining the necessary munitions of war.

We now have an opportunity of contributing largely to that end without injury to ourselves and without the creation of any additional State debt, and I trust, Gentlemen, you will meet the crisis—come to the support of the Confederate government and by your action on this subject inflict a heavy blow upon our enemies and sustain the patriotism and devotion of the State of Texas to the great cause in which we are all embarked.

Respectfully,

F. R. Lubbock

(Postscript) — I also transmit a letter on some [sic] subjects from Honorable J. H. Reagan.

Mr. Harcourt presented the following protest:

The undersigned most earnestly protest against the action of the Senate this day in going into executive session and closing the doors of the Senate. We believe it to have been a palpable violation of section 18, Article 3, of the Constitution, and we wish the fact spread upon the journal that we took no part in this violation of the Constitution.

(signed) John T. Harcourt

G. B. Erath

R. K. Hartley

A Committee of Conference made report as follows:

That the bill "to regulate the issuing of Treasury warrants" be recognized as the substitute to the original bill and that the caption of the substitute bill be amended thus: "a bill to repeal an Act authorizing unpaid warrants to bear interest, approved February 14, 1860, and otherwise to regulate the issuing of Treasury warrants," and

that the bill so amended be passed. That the other bill sent from Senate to House be regarded as a separate, original bill of the Senate, that it be amended by striking from 3rd section the words "cities and towns" and that the bill thus amended be passed.

Pryor Lea, Chairman, part of Senate

Horace Cone, Chairman, part of House

The Committee on Enrolled Bills reported the following correctly enrolled, properly signed and presented to the Governor, viz.:

A bill for relief of Joseph P. Sneed, assignee of Thomas Grubbs.

A joint resolution relative to paying deputy marshals for taking census.

The Committee on Engrossed Bills reported the following bills correctly engrossed, to wit:

A bill concerning the disposal of certain funds therein described.

A bill changing the time of holding District Courts in 9th Judicial District.

A bill for relief of Robert R. Scott.

A bill for relief of preemption settlers.

And a bill for relief of Texas and New Orleans Railroad Company.

A bill for relief of Ann E. Baxter. Read 2nd time, amended, and passed to 3rd reading. Rule suspended, read 3rd time and passed.

The Senate adjourned until 7 o'clock P. M.

7 o'clock P. M.

Senate met, roll called, quorum present.

A bill to confirm Bounty Land Warrant No. 1551 to Andrew Benner for 240 acres of land. Read 2nd time, and passed to 3rd reading. Rule suspended, read 3rd time and passed.

Mr. Harcourt introduced a resolution that no private or local bill shall be called up out of order until bills of a general character shall be disposed of. Adopted.

A message from the House informing the Senate of the passage of the following bills:

A bill concerning the disposal of certain funds therein named, with amendments.

A bill for relief of railroad companies.

Joint resolution on Confederate affairs.

A bill appropriating money derived from the State

revenue for military purposes. Read 2nd time. Mr. Harcourt moved to postpone to a time certain. (Lost). Mr. Crawford of Jasper moved to lay on table. (Lost.) Mr. Erath moved to postpone consideration until 10 o'clock A. M. tomorrow. Mr. Finlay moved to lay on table. (Lost.) The substitute was then adopted, when Mr. Lea moved to fill blank with \$2,000,000. Mr. Finlay moved \$1,000,000,-000 [sic]. Mr. Guinn offered \$500,000. Mr. Hartley moved \$5,000,000. Put and lost. Mr. Lea's motion was put and lost. Mr. Mitchell proposed \$750,000; Mr. Lea \$1,000,000; Mr. Shepard \$1,800,000. Lost. Mr. Lea proposed \$1,500,000. Lost. Question on Mr. Lea's proposition of \$1,000,000 put and carried.

Mr. Beasley moved to amend by inserting after "specie" the words "Confederate Treasury notes." Mr. Lea proposed to amend Mr. Beasley's motion by adding "except \$300,000 in Confederate Treasury notes to be applied to other appropriations." Accepted. The question was then put and lost. It was then reconsidered. Mr. Hartley moved to reconsider the vote adopting the substitute. Laid on table. Mr. Finlay moved the previous question. Senate refused to sustain it. Mr. Burnett moved to strike out all of the amendment after "Treasury notes." Laid on table. Being moved and refused, the question arose on the adoption of the amendment, when a call of the Senate was made and sustained. The Senate not being full, the amendments of the House to a bill providing for the disbursement of certain funds therein named were concurred in.

Joint resolution on Confederate relations was referred to Committee on Confederate Relations.

The Senate then adjourned until 10 o'clock A. M. tomorrow.

Friday, January 10, 1862.

Senate met pursuant to adjournment. Prayer by the Chaplain, roll called, quorum present. The journal of yesterday was read and adopted.

The Judiciary Committee recommended the passage of a bill to incorporate the Texas Lead Mine Company.

Mr. Erath introduced a bill supplemental to an Act to provide for auditing and settling claims against the State on account of volunteers called out by the Governor and Committee of Safety, &c. Read 1st time. Rule suspended, read 2nd time and ordered to be engrossed. Rule suspended, read 3rd time and passed.